

HOUSE BILL No. 6441

September 7, 2006, Introduced by Rep. Farhat and referred to the Committee on Family and Children Services.

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 2 (MCL 722.622), as amended by 2004 PA 563.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Adult foster care location authorized to care for a
3 child" means an adult foster care family home or adult foster care
4 small group home as defined in section 3 of the adult foster care
5 facility licensing act, 1979 PA 218, MCL 400.703, in which a child
6 is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

7 (b) "Attorney" means, if appointed to represent a child under
8 the provisions referenced in section 10, an attorney serving as the
9 child's legal advocate in the manner defined and described in

1 section 13a of chapter XIIIA of the probate code of 1939, 1939 PA
2 288, MCL 712A.13a.

3 (c) "Central registry" means the system maintained at the
4 department that is used to keep a record of all reports filed with
5 the department under this act in which relevant and accurate
6 evidence of child abuse or neglect is found to exist.

7 (d) "Central registry case" means a child protective services
8 case that the department classifies under sections 8 and 8d as
9 category I or category II. For a child protective services case
10 that was investigated before July 1, 1999, central registry case
11 means an allegation of child abuse or neglect that the department
12 substantiated.

13 (e) "Child" means a person under 18 years of age.

14 (f) "Child abuse" means harm or threatened harm to a child's
15 health or welfare that occurs through nonaccidental physical or
16 mental injury, sexual abuse, sexual exploitation, or maltreatment,
17 by a parent, a legal guardian, or any other person responsible for
18 the child's health or welfare or by a teacher, a teacher's aide, or
19 a member of the clergy.

20 (g) "Child care organization" means that term as defined in
21 section 1 of 1973 PA 116, MCL 722.111.

22 (h) "Child care provider" means an owner, operator, employee,
23 or volunteer of a child care organization or of an adult foster
24 care location authorized to care for a child.

25 (i) "Child care regulatory agency" means the department ~~of~~
26 ~~consumer and industry services~~ or a successor state department
27 that is responsible for the licensing or registration of child care

1 organizations or the licensing of adult foster care locations
2 authorized to care for a child.

3 (j) "Child neglect" means harm or threatened harm to a child's
4 health or welfare by a parent, legal guardian, or any other person
5 responsible for the child's health or welfare that occurs through
6 either of the following:

7 (i) Negligent treatment, including the failure to provide
8 adequate food, clothing, shelter, or medical care.

9 (ii) Placing a child at an unreasonable risk to the child's
10 health or welfare by failure of the parent, legal guardian, or
11 other person responsible for the child's health or welfare to
12 intervene to eliminate that risk when that person is able to do so
13 and has, or should have, knowledge of the risk.

14 (k) "Citizen review panel" means a panel established as
15 required by section 106 of title I of the child abuse prevention
16 and treatment act, ~~Public Law 93-247,~~ 42 ~~U.S.C.~~ **USC** 5106a.

17 (l) "Member of the clergy" means a priest, minister, rabbi,
18 Christian science practitioner, or other religious practitioner, or
19 similar functionary of a church, temple, or recognized religious
20 body, denomination, or organization.

21 (m) "Controlled substance" means that term as defined in
22 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

23 (n) "CPSI system" means the child protective service
24 information system, which is an internal data system maintained
25 within and by the department, and ~~which~~ **THAT** is separate from the
26 central registry and not subject to section 7.

27 (o) "Department" means the ~~family independence agency~~

1 DEPARTMENT OF HUMAN SERVICES.

2 (p) "Director" means the director of the department.

3 (Q) "DOMESTIC VIOLENCE" MEANS THE OCCURRENCE OF ANY OF THE
4 FOLLOWING ACTS BY A PERSON WHICH IS NOT AN ACT OF SELF-DEFENSE:

5 (i) CAUSING OR ATTEMPTING TO CAUSE PHYSICAL OR MENTAL HARM TO A
6 FAMILY OR HOUSEHOLD MEMBER.

7 (ii) PLACING A FAMILY OR HOUSEHOLD MEMBER IN FEAR OF PHYSICAL
8 OR MENTAL HARM.

9 (iii) CAUSING OR ATTEMPTING TO CAUSE A FAMILY OR HOUSEHOLD
10 MEMBER TO ENGAGE IN INVOLUNTARY SEXUAL ACTIVITY BY FORCE, THREAT OF
11 FORCE, OR DURESS.

12 (iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD MEMBER
13 THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED,
14 FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.

15 (R) ~~-(q)-~~ "Expunge" means to physically remove or eliminate
16 and destroy a record or report.

17 (S) ~~-(r)-~~ "Lawyer-guardian ad litem" means an attorney
18 appointed under section 10 who has the powers and duties referenced
19 by section 10.

20 (T) ~~-(s)-~~ "Local office file" means the system used to keep a
21 record of a written report, document, or photograph filed with and
22 maintained by a county or a regionally based office of the
23 department.

24 (U) ~~-(t)-~~ "Nonparent adult" means a person who is 18 years of
25 age or older and who, regardless of the person's domicile, meets
26 all of the following criteria in relation to a child:

27 (i) Has substantial and regular contact with the child.

1 (ii) Has a close personal relationship with the child's parent
2 or with a person responsible for the child's health or welfare.

3 (iii) Is not the child's parent or a person otherwise related to
4 the child by blood or affinity to the third degree.

5 (V) ~~-(u)-~~ "Person responsible for the child's health or
6 welfare" means a parent, legal guardian, person 18 years of age or
7 older who resides for any length of time in the same home in which
8 the child resides, or, except ~~when~~ **IF** used in section 7(2)(e) or
9 8(8), nonparent adult; or an owner, operator, volunteer, or
10 employee of 1 or more of the following:

11 (i) A licensed or registered child care organization.

12 (ii) A licensed or unlicensed adult foster care family home or
13 adult foster care small group home as defined in section 3 of the
14 adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

15 (W) ~~-(v)-~~ "Relevant evidence" means evidence having a tendency
16 to make the existence of a fact that is at issue more probable than
17 it would be without the evidence.

18 (X) ~~-(w)-~~ "Sexual abuse" means engaging in sexual contact or
19 sexual penetration as those terms are defined in section 520a of
20 the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

21 (Y) ~~-(x)-~~ "Sexual exploitation" includes allowing, permitting,
22 or encouraging a child to engage in prostitution, or allowing,
23 permitting, encouraging, or engaging in the photographing, filming,
24 or depicting of a child engaged in a listed sexual act as defined
25 in section 145c of the Michigan penal code, 1931 PA 328, MCL
26 750.145c.

27 (Z) ~~-(y)-~~ "Specified information" means information in a

1 children's protective services case record related specifically to
2 the department's actions in responding to a complaint of child
3 abuse or neglect. Specified information does not include any of the
4 following:

5 (i) Except as provided in this subparagraph regarding a
6 perpetrator of child abuse or neglect, personal identification
7 information for any individual identified in a child protective
8 services record. The exclusion of personal identification
9 information as specified information prescribed by this
10 subparagraph does not include personal identification information
11 identifying an individual alleged to have perpetrated child abuse
12 or neglect, which allegation has been classified as a central
13 registry case.

14 (ii) Information in a law enforcement report as provided in
15 section 7(8).

16 (iii) Any other information that is specifically designated as
17 confidential under other law.

18 (iv) Any information not related to the department's actions in
19 responding to a report of child abuse or neglect.

20 **(AA)** ~~-(z)-~~ "Structured decision-making tool" means the
21 department document labeled "DSS-4752 (P3) (3-95)" or a revision of
22 that document that better measures the risk of future harm to a
23 child.

24 **(BB)** ~~-(aa)-~~ "Substantiated" means a child protective services
25 case classified as a central registry case.

26 **(CC)** ~~-(bb)-~~ "Unsubstantiated" means a child protective
27 services case the department classifies under sections 8 and 8d as

1 category III, category IV, or category V.